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Administrative Challenge or Ethical Dilemma?

Responding Justly When a Student With a Disability Engages in a Violent or Disruptive Act

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This case study involves an 8-year-old American Indian student with a disability, who was videotaped assaulting another student as they exited the school bus. Although acts of school violence are common on campuses across the nation, this incident is particularly complex, given the disability status of the student committing this act. This case provides an opportunity for both practicing and aspiring school leaders to explore a number of administrative and ethical dilemmas related to the discipline of students with disabilities and other special educational needs, utilizing a framework grounded in principles of social justice and equity.

Keywords: *educational leadership; special education; social justice*

Case Narrative

Description of the School and the Surrounding Community

Bear Meadows Elementary school is located in a rural area of a southeastern state, 10 miles west of an American Indian reservation. Until recently, the local economy has been dependent on agriculture-based industries and tourism, thereby lending itself to a highly stable population with limited transience, except for summer months when workers traveled to the area seeking seasonal employment. Because of the school's close proximity to the reservation and the recent establishment of a tribally operated gaming facility, the school has experienced an increase in the number of American Indians, as well as students from other culturally and linguistically diverse racial and ethnic groups. Approximately 300 students attend Bear Meadows. Seventy five percent of the student body is White, 12% African American, 6% Hispanic, 4% Asian/Pacific Islander, 1% American Indian, and 2% other racial or ethnic groups. The majority of the teaching and administrative staff is White.

The Incident

The incident described in this case study involves Ian, an 8-year-old American Indian, male student diagnosed with Pervasive Developmental Disorder Not Otherwise Specified (PDD NOS)¹ and posttraumatic stress disorder. PDD NOS is described as an autistic-like condition marked by severe and pervasively impaired development of social, verbal, and nonverbal communication skills, in addition to stereotypical behaviors (e.g., spinning, hand flapping), interests, and activities (National Dissemination Center for Children with Disabilities, 2003). As a result of his disabilities, Ian exhibits deficits in social skills (e.g., difficulty interacting with peers in group settings, inability to consistently and accurately read and respond to social cues) and communication (e.g., difficulty expressing himself orally), which have adversely impacted his educational performance. Since beginning school at Bear Meadows in kindergarten, Ian has found it difficult to connect with his peers. Teachers report that Ian's inability to respond appropriately to social cues has isolated him from many of his peers and made him the target of excessive teasing and taunting.

The youngest of four siblings, Ian is small for his age, extremely quiet at times, and has experienced episodes of school phobia, which left him unable to attend school for a significant portion of kindergarten and first grade. In preparation for his return to school in the second grade, the Individualized Education Program (IEP) team met to establish a behavior intervention plan, aimed at integrating Ian into the regular education environment and improving his ability to interact socially with his teachers and peers. Although Ian spends the majority of the school day in the regular education setting, he has exhibited episodes of inappropriate social behaviors (e.g., hitting, pushing, not responding to the teacher when spoken to, and hiding under his desk), resulting in a number of time-outs, in-school suspensions, and short-term out-of-school suspensions for less than 10 days each. The IEP team responded by revising the IEP to require the use of a one-on-one aid. The aid has worked with Ian to develop strategies to reduce the number of inappropriate verbal and physical outbursts and to increase the amount of time he spends in the regular education environment rather than in in-school suspension and short-term removals. Each of these interventions has focused on changes in Ian's behavior, with limited attention placed on the possible role of Ian's teachers or peers in triggering or sustaining these behaviors. Many of these interventions have been developed without consultation or collaboration with his parents and may not be reflective of the social or cultural values and norms of Ian's native community.

The use of a one-on-one aid initially appeared to increase the number of days Ian attended school without violating the school's code of conduct. Ms. Bellows, the one-on-one aid, is a member of Ian's tribe and has known him since he was a toddler. She developed an easy rapport with Ian and his family, and the situation at school seemed to be improving prior to this incident. However, Ian's inappropriate behaviors returned each time Ms. Bellows was absent from school, resulting in a

number of time-outs and in-school suspensions between the start of the school year and the incident described in this case. Each of these incidents involved minor infractions such as name-calling, out-of-seat behavior, hitting other students, and difficulty making transitions from one subject to another and from one setting to another. Noting the increase in inappropriate behaviors during Ms. Bellows' absence, Ian's behavior intervention plan was revised to require a substitute aid to work with Ian during Ms. Bellows' absence.

The incident described in this case occurred on a Friday morning the week before spring break. At the time of the incident, Ian's one-on-one aid was absent because of sickness. Although Ian's behavior intervention plan called for the use of a substitute aid in the event of Ms. Bellows' absence, the school was unable to find a suitable aid on short notice. As a result, Ian was unaccompanied as he exited the school bus. While exiting the bus, Ian struck Ellen, a first-grade student, with his fist before knocking her to the ground. As the incident unfolded, several teachers were gathered in the courtyard of the school awaiting the arrival of the buses and the start of the school day. Although none of the teachers witnessed the events leading to the incident, parts of the incident were captured by security cameras located on the school bus and in the courtyard of the school.

Following the incident, Ellen, who was crying hysterically, ran to a group of teachers awaiting the arrival of the morning buses. She was followed by Ian. Attempting to separate the two students, one of the teachers grabbed Ian from behind, escorted him to an empty classroom, and closed the door, leaving Ian alone in the classroom. The teacher then instructed Ellen to wait in the hallway outside the classroom, while she tried to contact Ian's parents and the principal. Growing increasingly agitated, Ian opened the door to the classroom and ran down the hallway, where he saw Ellen and a classmate sitting alone. As he approached the students, Ian picked up a chair and threw it in the direction of the two students knocking one of them to the ground. He then ran into a nearby classroom, where he was restrained by the school resource officer as he attempted to climb out of the window. The resource officer escorted him to the principal's office, where his parents were called and notified of his impending suspension. Following district policy, the resource officer filed a written report with the sheriff's department, which resulted in an assault charge against Ian.

Although Ian was initially suspended from school for 3 days, he was not allowed to return to school until the required IEP meeting. Because of spring break, this meeting could not be scheduled until 1 week after the initial suspension. Ian was suspended on March 3rd. The IEP meeting was scheduled for March 10th. The purpose of the IEP meeting was to determine appropriate disciplinary and academic interventions for Ian. Two hours before the meeting, Ian's parents were notified that the meeting was to be rescheduled because of the special education teacher's illness. The meeting was rescheduled for the following week. During this time, Ian remained at home, where he received no formal special education or related services. During the

suspension, Ian's parents became increasingly distraught because he spent much of this time hiding under his bed, refusing to talk.

When the IEP team finally met, it determined that Ian would not return for the remainder of the school year; instead, he would receive homebound instructional services. Although his parents did not initially agree with this decision, they relented and consented to the provision of homebound services. A follow-up meeting was scheduled for 2 p.m. on August 1st to revisit the incident and to determine appropriate educational placement alternatives, as well as academic and behavioral interventions for the upcoming school year.

Other Key Characters

Ian's Parents

Ian's parents are well-respected members of the community and have been actively involved in school-related activities. His father works for a local factory, while his mother works for the state and represents the tribe on the state's Commission on Indian Affairs. Because of the complexity of this case, Ian's parents sought the advice of a special education advocate. A friend of the family recommended that they contact a state advocacy organization that works on behalf of individuals with developmental disabilities. Ian's mother was familiar with this organization, because she had previously served as a member of its advisory board. The lead advocate is a former special education teacher and is licensed to practice law in several states. Although school law is not her area of expertise, she volunteered to assist Ian's parents to insure that their son's case is handled appropriately. She could attend upcoming IEP meetings, but would be unable to represent Ian in legal matters involving the assault charge. In response, she suggested that the parents contact the state's Advocacy Council on Disability. At that time, no decision had been made regarding this organization's willingness to represent Ian in court. Although both of Ian's parents are employed, they were concerned about the potentially high costs of hiring a lawyer to represent Ian's interests. Without state aid, Ian's parents may not be able to afford legal representation.

Ellen and Her Parents

Ellen's father is employed by the school district's central administration. Her mother works from home as a seamstress, having left her job as a teacher assistant following the births of Ellen and her siblings. Living in the same neighborhood as Ian and his family, Ellen frequently rode to school with Ian without any prior incidents. However, the day of the incident involving Ellen and Ian, Ellen reported that Ian grabbed a book from her as they rode to school on the bus. Ellen then grabbed the book from Ian before exiting the bus. This is thought to be the event that precipitated the assault. On her

parents' questioning, Ellen indicated that she had, on occasion, joined other students in teasing Ian about being in special education. However, she did not think that that was a "big deal." Since the incident, Ellen has been unable to sleep in her own room and frequently wakes up during the night crying. Citing concern for their child's safety, as well as the safety of her peers, Ellen's parents have adamantly opposed Ian's return to Bear Meadows.

The Principal and Assistant Principal

The principal, Dr. Peabody, is from the local community and has been employed at Bear Meadows Elementary school for 6 years, having served as a teacher and coach at the middle school before transferring to the elementary school. Dr. Peabody is well known in the community and among her colleagues as a strict disciplinarian, with little tolerance for students who violate school policies. On the morning of the incident, Dr. Peabody was attending a professional development meeting at the central office. In her absence, the staff, led by the assistant principal, Mr. Saunders, briefed her on the facts of this incident and continued to update her as new information was obtained. Having served less than 1 year as an assistant principal, Mr. Saunders felt it important for Dr. Peabody to be informed of the incident immediately and for her to assume responsibility for any decisions regarding disciplinary and/or legal actions in this case.

Ian's Regular Education Classroom Teacher

Mrs. Brewer, Ian's primary regular education classroom teacher, is also from the local community and has taught at Bear Meadows for 17 years. During the past year, she had implemented a number of interventions, developed in consultation with Ian's special education case manager, Ms. Ellis, aimed at decreasing the number of inappropriate and sometimes disruptive behaviors demonstrated by Ian in her classroom. Although she had collaborated with the special education teacher, she had been resistant to the continued placement of Ian in her classroom and had referred him to the principal's office on a number of occasions, when his behavior escalated to the point that it was disruptive to her or his classmates. When questioned about these referrals, Mrs. Brewer is quoted to have said, "You know how those kids are."

The One-on-One Aid

Ms. Bellows has been employed as an instructional assistant at Bear Meadows for 3 years. She holds an associates degree in early childhood education from the local community college. Originally hired as an instructional assistant in a kindergarten classroom, Ms. Bellows was reassigned to work with Ian at the beginning of the academic year. Although initially reluctant to serve as a one-on-one aid, she had developed what some have described as an extremely personal rapport with Ian and his

family, which had resulted in a disciplinary conference with the principal and the special education supervisor. One week prior to the incident in question, Ms. Bellows was notified that she would be reassigned to a kindergarten classroom at the start of the next academic year and would no longer work with Ian. She was upset by this news but felt that she had no recourse, if she wanted to maintain her position in the school.

The Bus Driver

Mr. Yarland, the bus driver, has worked for the transportation department of the local school district for nearly 20 years. Although very personable, several bus riders have described Mr. Yarland's bus as the zoo; a place where students are allowed to walk, talk loudly, and play while the bus is in route.

The News Media

The incident in question was reported the following day in the local newspaper, *The Bear Meadows Enquirer*, as well as on regional television and radio news stations the following Monday. By Tuesday, 4 days after the incident, a number of articles and editorials had been published in the *Enquirer*. In one article, Ellen's parents were quoted as saying, "This time our child was the victim—next time it could be yours!" Although Ian was not named in the newspaper article, his parents are concerned that information provided may lead to the identification of Ian and his family. They have already been warned that community members will protest Ian's return to school following the next IEP meeting scheduled for August 1st.

The Dilemma

Parents and community members have demanded that Ian not be allowed to return to school in the fall. When the IEP team met after spring break, the decision was made to provide Ian with homebound instruction for the remainder of the school year. The IEP team then scheduled a follow-up meeting in August to make decisions regarding his placement for the upcoming school year. Current options include: (a) homebound instruction limited to 3 hr per week; (b) return to Bear Meadows with placement in a regular education setting, in a more restrictive self-contained placement, or in a combination of regular and special education settings; or (c) placement in an alternative education program designed to meet the needs of students who have demonstrated violent and aggressive behaviors. Although a final decision will not be made until August, Ian's parents have expressed their opposition to transferring Ian to the alternative education programming, which is located nearly 75 miles from their home.

Faced with media frenzy and growing unrest in the community, the principal must respond. Her response will depend in part on placement decisions made in collaboration with the IEP team. As the principal prepares for the start of the new school year, she is faced with a dilemma—how to resolve this case in an equitable and just manner for all parties involved, while ensuring that Ian is provided an appropriate education.

Teaching Notes

This case study, developed for use in a graduate level course titled “Leadership and Inclusive Education,” involves an 8-year old American Indian student with a disability, who is charged with assaulting another student while at school. Although acts of school violence are common on campuses across the nation, this incident is particularly interesting, given the disability status of the student who committed this act. As illustrated, this case presents a number of administrative challenges and ethical dilemmas, which the principal will be called on to resolve in collaboration with Ian’s IEP team.

In developing this case, we felt strongly that principles of social justice and ethical practice were key to an equitable and just resolution to the issues and dilemmas presented. Although much has been written on the development of educational leaders for social justice,² little has been written on the interplay between educational leadership, social justice, and the education of students with disabilities or other special educational needs (Theoharis, 2007). In response, we reference the work of Christensen and Dorn (1997) who argue that the definition of social justice, as it applies to the education of students with disabilities, should include a strong relational component, recognizing the potential that exists for the relationships among those involved in the education of students with disabilities to be adversely impacted by power differentials often associated with disability, class, gender, and race. According to Christensen and Dorn (1997),

Any theory of social justice should include explicit prescriptions of structures to support desired qualities of relationships. The creation of individual rights is an ingenious way of formalizing a general prescription for relationships: that we are all equal, and that we all have some voice and protection of self that the majority cannot trample.

Social justice is the active search for better sets of relationships, at both the individual and family level (called intervention) and at some larger level (called social change). The process of social change begins by removing the sense of inevitability in a specific set of structures and pointing to some better alternative. A very concrete sense of some “better alternative” is a requirement for effective movements for justice. (p. 194)

Successful resolution of this case is dependent on the establishment and maintenance of relationships aimed at serving the best interests of individual students, as well

as the collective student body and larger school community. This requires the principal, in particular, to be cognizant of and responsive to the relationships that exist among the IEP team members, and the impact the IEP team's decision will have on the status of these relationships during and after the resolution of this case. Readers are reminded that federal legislation (i.e., the Individuals with Disabilities Education Improvement Act) requires that decisions regarding the education and placement of students with disabilities involve a number of players, including the child's parents or legal guardians, a representative of the local education agency (i.e., the school district), the child's regular education and special education teachers, the school psychologist or other person(s) knowledgeable about testing and assessment, and others to be determined at the discretion of the parents and the local education agency.

Although we emphasize the relational aspects of social justice as it relates to this case, we recognize that there are multiple lenses through which this case may be viewed, and we encourage readers to employ these lenses as well. Specifically, readers are encouraged to consider the extent to which, as well as how, school leaders can balance their legal responsibilities for the education of students with special educational needs, with their responsibility to act in a manner that is socially just and equitable for all.

Questions and Points to Consider

The following questions are designed to facilitate discussion resulting in the development of a plan of action that will equitably and justly resolve the dilemmas posed in this case. Before answering these questions, readers are asked to identify the primary dilemma(s) in this case. Readers are also asked to consider the extent to which this is an ethical or administrative dilemma, as well as the extent to which a social justice or ethics-based framework might be used to resolve this case. Ethical frameworks include, but are not limited to, the ethic of justice, which is based on the principles of law, fairness, and equity; the ethic of critique, which allows for a critical analysis of potential adverse effects of the decision in this case on Ian, Ellen, and their peers, as well as the larger school community; the ethic of care, which urges team members to continuously ask themselves what is the most caring way in which to approach the resolution of this case; the ethic of the profession, which argues that individual actors often find themselves in conflict, when their individual ethical principles are at odds with the ethical principles of the field in which they work—in this case, the individual actor must err on the side of the principles of his or her profession and the ethic of best interest—which urges us to consider the best interests of individual versus collective bodies of students, educators, and community members (see, e.g., Shapiro & Stefkovich, 2001, 2005; Stefkovich, 2006; Stefkovich & O'Brien, 2004). Readers are asked to analyze this case looking through each of these lenses, considering the various ways in which this case might be resolved.

In-Class Assignment

When answering the questions below, it is recommended that the class break into small groups with each student assuming the role of one or more members of the IEP team. Each of these questions should be answered from the perspective of an IEP team member.

1. One can argue that educational decisions are affected by the multiple contexts within which a school operates. Social justice frameworks would argue that these contexts set the stage for inequitable treatment and outcomes for students, teachers, parents, and community members from traditionally underrepresented or disenfranchised groups. In this instance, how might cultural, social, economic, political, and other contexts or factors have played a role in the development and eventual resolution of the incident described in this case?
2. As previously discussed, the IEP team plays an important role in the resolution of this case. How might the principal facilitate the work of the IEP team in resolving this case in a just and equitable manner? How might the IEP team facilitate and ensure active parental involvement in the resolution of this case?
3. To what extent, if any, will the involvement of an advocate and/or a lawyer affect the dynamics of this case? To what extent is the IEP team required to work with advocates and/or lawyers representing students with disabilities, as well as their families?
4. Given the recent amendments³ to federal guidelines for disciplining a student with a disability, what procedures must be followed to discipline Ian?
5. How might a behavior intervention plan be developed and implemented to avoid future incidents such as the one described in this case? What is the IEP team's role in the development of the behavior intervention plan? What factors, other than Ian's disability status and prior behavior, should be factored into the development of this plan, and why?
6. How will the team achieve its legal responsibility to provide a free and appropriate public education for Ian, while ensuring a safe and secure learning environment for his peers?
7. Although much of this discussion centers on the rights of Ian, how might the use of a social justice or ethics-based framework serve to acknowledge and protect the rights of Ellen?
8. How will the IEP team and the principal respond to community and media-generated attention to this case?

Next Steps

The new school year begins in 3 weeks. Ian's IEP meeting is scheduled to begin in 15 min. Members of the community and the media are gathered outside the central administration office awaiting the start of the meeting. The IEP team is preparing to assemble. The principal's hands are shaking, her heart is beating rapidly, and

her face feels flushed. She has spent hours reviewing this case and contemplating possible scenarios. How will this case be resolved? What input will the principal have? How will she respond to the team's decision? How will she balance her duty to maintain a safe and secure learning environment for all students and staff with her duty to ensure a free and appropriate public education to Ian, a student with a disability? How will Ian respond to the decision?

Notes

1. See <http://www.nichcy.org/pubs/factshe/fs20txt.htm> for additional information on disabilities that fall under the umbrella of Pervasive Developmental Disorders.
2. For additional readings on leadership and social justice, see for example, Brown (2006); Cambron-McCabe and McCarthy (2005); Furman and Gruenewald (2004); Larson and Murtadha (2002); Marshall (2004); Scheurich and McKenzie (2006).
3. For additional information regarding recent changes to federal disciplinary guidelines for students with disabilities, see the following: Klotz and Nealis (2007); LDonline.org (2007); U.S. Department of Education (2007).

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Related Legislation

The Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446.

Additional Electronic Resources

Consortium for Appropriate Dispute Resolution in Special Education, <http://www.directionservice.org/cadre/index.cfm>

Council for Exceptional Children (CEC), <http://www.cec.sped.org//AM/Template.cfm?Section=Home>

The Pennsylvania Training and Technical Assistance Network, www.pattan.k12.pa.us

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Felicia R. Wilson is a doctoral student at The Pennsylvania State University, where she is studying Educational Leadership and International and Comparative Education. Originally from Washington, D.C., she has served as the executive director of VSA Arts Maryland in partnership with the Maryland State Department of Education and the Kennedy Krieger Institute. Her research interests include issues of social justice, gender, and equity.